NEW MEXICO
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Original via UPS -- Copy via Electronic Mail

September 24, 2018

Mr. Charles Maguire, Director
Water Quality Protection Division (6WQ)
U. S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: State Certification

Dear Mr. Maguire:

Enclosed, please find the state certification for the following proposed National Pollutant Elimination System (NPDES) permit: **El Paso Electric Company - Rio Grande Power Station - NM0000108**.

If any, comments and conditions are enclosed on separate sheets.

U.S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above-referenced NPDES Individual Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to reasonably ensure that the action is consistent (will comply with) with state law [New Mexico Water Quality Act, §§ 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978]; and will not violate applicable state Water Quality Standards [*Standards for Interstate and Intrastate Surface Waters*, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC), including the antidegradation policy; and the statewide Water Quality Management Plan and Continuing Planning Process, including Total Maximum Daily Loads.

Pursuant to state regulations for permit certification in 20.6.2.2001 NMAC, USEPA jointly with NMED provided public notice on July 28, 2018. NMED posted link on the Department's website at https://www.env.nm.gov/public-notices/ and https://www.env.nm.gov/surface-water-quality/public-notices/. NMED's public comment period ended on August 27, 2018. One written comment, submitted by the applicant, was received during the comment period. NMED considered all comments pertinent. NMED will send a copy of this conditional final permit certification to the applicant.

Sincerely,

/s/Shelly Lemon

Shelly Lemon
Bureau Chief
Surface Water Quality Bureau

cc: (w/enclosures)

- Ms. Jennifer L. Hower, General Counsel, NMED via e-mail
- Ms. Evelyn Rosborough, USEPA (6WQ-PO) via e-mail
- Mr. Brent Larsen, USEPA (6WQ-PP) via e-mail
- Mr. Andres Ramirez, El Paso Electric Company, Rio Grande Power Station, P.O. Box 982, El Paso, TX 79960 via Certified Mail (7017 2400 0000 5585 3360)
- Ms. Aida G. Mauricio, El Paso Electric Company via e-mail
- Mr. David W. Galindo, Director, Water Quality Division, MC 145, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, TX 78711-3087 via certified mail

Ms. Anne L. Idsal, Regional Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

September 24, 2018

STATE CERTIFICATION

RE: El Paso Electric Company - Rio Grande Power Station - NM0000108

Dear Ms. Idsal:

The New Mexico Environment Department (Department) has examined the application and proposed National Pollutant Discharge Elimination System (NPDES) permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and appropriate requirements of State law.

Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and statewide water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

( ) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law

(X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (**see attachments**)

( ) denies certification for the reasons stated in the attachment

( ) waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the statewide water quality management plan, each of the conditions cited in the draft permit unless otherwise indicated (**see attachments**), and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and statewide water quality management plan.

Please contact Sarah Holcomb at 505-827-2798 if you have any questions concerning this certification.

Conditions and comments pertaining to this draft permit are attached.

Sincerely,

/s/Shelly Lemon

Shelly Lemon
Bureau Chief
Surface Water Quality Bureau

Conditional State Certification of the Proposed NPDES Draft Permit

El Paso Electric Company - Rio Grande Power Station - NM0000108

September 24, 2018

Citations/References/Justification for Conditions of Certification

The following revisions to the Draft Permit are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico water quality standards adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [Chapter 74, Article 6 New Mexico Statutes Annotated (NMSA) 1978]. State water quality standards are published in the document entitled Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission (WQCC), 20.6.4 New Mexico Administrative Code (NMAC) as amended through August 11, 2017 (NMWQS), which includes the Antidegradation Policy and Implementation Plan in 20.6.4.8 NMAC. Antidegradation policy procedures are in Statewide Water Quality Management Plan and Continuing Planning Process (WQMP/CPP), Appendix A, Antidegradation Policy Implementation Procedure adopted by the New Mexico Water Quality Control Commission (WQCC), November 30, 2010.

United States Environmental Protection Agency (USEPA) NPDES regulations in 40 Code of Federal Regulations (CFR) § 122.44(d)(1)(i) require that permit

> *[l]imitations must control all pollutants or pollutant parameters…which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard….*

NPDES regulations in 40 CFR § 122.44(i)(2) state *"…requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year."*

Requirements in 40 CFR § 124.53(e) require that State certification shall include:

> *(1) Conditions which are necessary to assure compliance with the applicable provisions of CWA sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law;*
>
> *(2) …any conditions more stringent than those in the draft permit which the State finds necessary to meet the requirements listed in paragraph (e)(1) of this section. For each more stringent condition, the certifying State agency shall cite the CWA or State law references upon which that condition is based.*
>
> *(3) A statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including water quality standards.*

The permit would re-authorize discharges from Outfall 002 to Montoya Drain, subject to unclassified Segment 20.6.4.98 NMAC if non-perennial and 20.6.4.99 NMAC if perennial, thence to Rio Grande in classified segment 20.6.4.101 NMAC; and Outfall 001 to Rio Grande in classified segment 20.6.4.101 NMAC of the Rio Grande Basin.

NMED is providing certification consistent with 40 CFR § 124.53(e)(1) and (2). Each condition of the draft permit and this certification cannot be made less stringent. These conditions are consistent with and will not violate the requirements of the State of New Mexico water quality standards, including antidegradation policy.

The permit would re-authorize discharges to an assessment unit of the Rio Grande listed as impaired for E.coli bacteria and dissolved boron. Rio Grande from International Mexico boundary to Leasburg Dam Total Maximum Daily Load (TMDL) for the Main Stem of the Lower Rio Grande from the International boundary with Mexico to Elephant Butte Dam was approved in 2007. The above-referenced bacteria TMDL does not

include a Waste Load Allocation (WLA) for this facility. USEPA Fact Sheet prepared June 25, 2018 states "*The proposed permit does not authorize discharges of domestic wastewater and the nature of discharge does not have a reasonable potential to contribute E. coli.*" A dissolved boron TMDL and WLA have not been drafted or approved. In this case, due to observed variable receiving water and effluent flows and concentrations the permit does not require incorporation of boron concentration or loading effluent limitations at this time. There is reasonable assurance boron effluent limitations are not required to maintain instream numerical criteria and general criteria, including antidegradation policy, except as conditioned below. Implementation of the Draft Permit and conditions of this certification is consistent with the Statewide Water Quality Management Plan, including the approved bacteria TMDL.

Definitions in 20.6.7.S(5) NMAC state:

> *Surface water(s) of the state" means all surface waters situated wholly or partly within or bordering upon the state, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds. Surface waters of the state also means all tributaries of such waters, including adjacent wetlands, any manmade bodies of water that were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state, and any "waters of the United States" as defined under the Clean Water Act that are not included in the preceding description. Surface waters of the state does not include private waters that do not combine with other surface or subsurface water or any water under tribal regulatory jurisdiction pursuant to Section 518 of the Clean Water Act. Waste treatment systems, including treatment ponds or lagoons designed and actively used to meet requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR Part 423.11(m) that also meet the criteria of this definition), are not surface waters of the state, unless they were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state."*

NMWQS Antidegradation Policy in NMWQS 20.6.4.8.A(1) NMAC states "*Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected in all surface waters of the state.*" NMWQS 20.6.4.8.A(2) NMAC states "*Further, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources.*"

NMWQS 20.6.4.12.G (Compliance with Water Quality Standards, Compliance Schedules) NMAC states:

> *It shall be the policy of the commission to allow on a case-by-case basis the inclusion of a schedule of compliance in a NPDES permit issued to an existing facility. Such schedule of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based permit limitations determined to be necessary to implement new or revised water quality standards or wasteload allocation. Compliance schedules may be included in NPDES permits at the time of permit renewal or modification and shall be written to require compliance at the earliest practicable time. Compliance schedules shall also specify milestone dates so as to measure progress towards final project completion (e.g., design completion, construction start, construction completion, date of compliance).*

NMWQS 20.6.4.11.H (Applicability, Unclassified Waters of the State) NMAC states:

> *Unclassified waters of the state are those surface waters of the state not identified in 20.6.4.101 through 20.6.4.899 NMAC. An unclassified surface water of the state is presumed to support the uses specified in Section 101(a)(2) of the federal Clean Water Act. As such, it is subject to 20.6.4.98 NMAC if nonperennial or subject to 20.6.4.99 NMAC if perennial. The commission may include an ephemeral unclassified surface water of the state under 20.6.4.97 NMAC only if a use attainability analysis demonstrates pursuant to 20.6.4.15 NMAC that attainment of Section 101(a)(2) uses is not feasible.*

NMWQS 20.6.4.98 (Intermittent Waters) NMAC states:

All non-perennial surface waters of the state, except those ephemeral waters included under section 20.6.4.97 NMAC or classified in 20.6.4.101-899 NMAC. A. Designated uses: livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact. B. Criteria: the use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses, except that the following site-specific criteria apply: the monthly geometric mean of E. coli bacteria 206 cfu/100 mL or less, single sample 940 cfu/100 mL or less.

NMWQS 20.6.4.99 (Perennial Waters) NMAC states:

All perennial surface waters of the state except those classified in 20.6.4.101-899 NMAC. A. Designated uses: Warmwater aquatic life, livestock watering, wildlife habitat and primary contact. B. Criteria: The use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses, except that the following site-specific criteria apply: the monthly geometric mean of E. coli bacteria 206 cfu/100 mL or less, single sample 940 cfu/100 mL or less.

NMWQS 20.6.4.101 (Rio Grande Basin) NMAC states:

The main stem of the Rio Grande from the international boundary with Mexico upstream to one mile downstream of Percha dam. A. Designated uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact. B. Criteria: (1) The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses except that the following segment-specific criterion applies: temperature 34°C (93.2°F) or less. (2) At mean monthly flows above 350 cfs, the monthly average concentration for: TDS 2,000 mg/L or less, sulfate 500 mg/L or less and chloride 400 mg/L or less. C. Remarks: sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.

NMWQS 20.6.4.11.B (Applicability of Water Quality Standards) NMAC states:

Critical Low Flow: The critical low flow of a stream at a particular site shall be used in developing point source discharge permit requirements to meet numeric criteria set in 20.6.4.97 through 20.6.4.900 NMAC and Subsection F of 20.6.4.13 NMAC.

(1) For human health-organism only criteria, the critical low flow is the harmonic mean flow; "harmonic mean flow" is the number of daily flow measurements divided by the sum of the reciprocals of the flows; that is, it is the reciprocal of the mean of reciprocals.

(2) For all other narrative and numeric criteria, the critical low flow is the minimum average four consecutive day flow that occurs with a frequency of once in three years (4Q3). The critical low flow may be determined on an annual, a seasonal or a monthly basis, as appropriate, after due consideration of site-specific conditions.

NMWQS in 20.6.4.900.D (Primary Contact) NMAC states *"The monthly geometric mean of E. coli bacteria of 126 cfu/100 mL or MPN/100 ml and single sample of 410 cfu/100 mL or MPN/100 mL. The results for E. coli may be reported as either colony forming units (CFU) or the most probable number (MPN) depending on the analytical method used."*

NMWQS in 20.6.4.900.J(1) NMAC lists the Irrigation (Irr) use-specific numeric criteria for dissolved boron which is 750 micrograms per Liter (µg/L).

NMWQS in 20.6.4.900.J(1) NMAC lists the Aquatic Life, Human Health Organism Only (HH-OO) use-specific numeric criteria for alpha-BHC which is 0.049 µg/L.

The following conditional certification includes references to Procedures for Implementing NPDES Permits in New Mexico or "NMIP." State of New Mexico, Statewide Water Quality Management Plan and Continuing Planning Process (WQMP), approved by the WQCC on May 10, 2011 and USEPA on December 23, 2011 states, among other things, *"as the current NPDES permitting authority for NM, EPA Region 6 develops effluent limitations and schedules of compliance in accordance with its Procedures for Implementing NPDES Permits in New Mexico, which is based on applicable federal regulations and guidance."* The current version of the NMIP prepared by USEPA Region 6 Permits Branch in consultation with the NMED Surface Water Quality Bureau (SWQB) is dated March 15, 2012. Among other things, the NMIP provide procedures for USEPA to conduct an analysis to determine if effluent pollutant concentrations have a reasonable potential to exceed numeric criteria in NMWQS (often simply called "RP").

Conditions of Certification

Condition 1, Outfall 001, alpha-BHC

If USEPA determines that the authorized discharge would cause, have the reasonable potential to cause, or contribute to an excursion of applicable NMWQS for alpha-BHC, then Part I.A of the Final Permit must control alpha-BHC concentration in the discharge with an effluent limitation of 0.1639386 µg/L or less for Outfall 001 to ensure that Permittee activities authorized in the NPDES permit are protective of NMWQS uses in 20.6.4.101 NMAC and HH-OO criteria for alpha-BHC in 20.6.4.900.J(1) NMAC per Antidegradation Policy and Implementation Plan in 20.6.4.8 NMAC consistent with the Statewide WQMP/CPP, including Appendix A at a monitoring frequency no less than once a year per 40 CFR 122.44(i)(2) consistent with CWA Section 401(d). USEPA may incorporate further conditions (e.g., reporting of loading, reporting of monthly average, monitoring frequency and sample type), as needed or as appropriate, consistent with the WQMP and NMIP.

Additional Citation/References/Justification: Limitations must control pollutants per 40 CFR § 122.44(d)(1)(i). The Permit would authorize discharges from Outfall 001 to the Rio Grande in Segment 20.6.4.101 NMAC. Aquatic Life HH-OO use-specific numeric criteria set forth in 20.6.4.900.J(1) NMAC for alpha-BHC is 0.049 µg/L. USEPA did not discuss alpha-BHC, a pesticide, effluent concentrations in the Fact Sheet dated June 25, 2018 for the Draft Permit and it is NMED's understanding that USEPA did not conduct a RP analysis for Outfall 001. The renewal application dated August 18, 2018 lists the alpha-BHC effluent concentration for Outfall 002 as "believed absent," but with a concentration of 0.00828 milligrams per Liter (mg/L) or 8.28 µg/L. USEPA Fact Sheet for the Draft Permit for El Paso Electric Company (EPE) Rio Grande Station states *"EPE claims that the overall quality of the Outfall 001 discharge would be similar to the cooling tower blowdown and/or storm water discharged through Outfall 002."* EPE's revised application and comments submitted within the comment period for the Draft Permit, which included additional information on flow and data on alpha-BHC concentration were considered by NMED in supplemental analyses for Outfall 001 to Rio Grande, Outfall 002 to the Rio Grande, Outfall 002 to Montoya Drain, and combined or "taken together" Outfall 001 and Outfall 002 discharges conducted by NMED SWQB. The supplemental analyses indicated that there is a reasonable potential to exceed NMWQS for alpha-BHC. The supplemental analyses used an average alpha-BHC concentration of 4.14 µg/L, highest monthly average flow reported for the past 24 months prior to the application being submitted of 0.59 million gallons per day (MGD) for Outfall 002, annualized or long-term estimated average flow provided on EPC's revised application of 0.001 MGD for Outfall 001, calculated in-stream harmonic mean critical low flows applicable to the alpha-BHC Aquatic Life HH-OO criteria per 20.6.4.11.B(1) NMAC. The results of the supplemental analyses using EPE's revised and additional data were considered and used in a quantitative Tier 2 Antidegradation Screens conducted by NMED SWQB to determine an allowable alpha-BHC concentration for this renewal of a permit for an existing discharge by an industrial activity taken together with all other activities allowed of 0.1639386 µg/L or less would be considered "de minimis." Otherwise, a Antidegradation Tier 2 review would need to be conducted per the Antidegradation Policy Implementation Procedure and approved by the WQCC.

Condition 2, Outfall 002, alpha-BHC

If USEPA determines that the authorized discharge would cause, have the reasonable potential to cause, or contribute to an excursion of applicable NMWQS for alpha-BHC, then Part I.A of the Final Permit must control alpha-BHC concentration with an effluent limitation of 0.1639386 µg/L or less for Outfall 002 to ensure that Permittee activities authorized in the NPDES permit are protective of NMWQS uses in 20.6.4.98 or 20.6.4.99 NMAC and 20.6.4.101 NMAC and HH-OO criteria for alpha-BHC in 20.6.4.900.J(1) NMAC per Antidegradation Policy and Implementation Plan in 20.6.4.8 NMAC consistent with the Statewide WQMP/CPP, including Appendix A at a monitoring frequency no less than once a year per 40 CFR 122.44(i)(2) consistent with CWA Section 401(d). USEPA may incorporate further conditions (e.g., reporting of loading and monthly average, monitoring frequency and sample type), as needed or as appropriate, consistent with the WQMP and NMIP.

Additional Citation/References/Justification: The additional citation/references/justification provided above for Condition 1 for Outfall 001 are also applicable to Condition 2 for Outfall 002. In addition, USEPA provided NMED SWQB with an analysis that was not published with the Fact Sheet for the Draft Permit that indicated a reasonable potential to exceed NMWQS at the alpha-BHC concentration of 8.28 µg/L for Outfall 002. Based on NMED SWQB's supplemental analyses an average alpha-BHC of 4.14 µg/L would also have a reasonable potential to exceed NMWQS.

Condition 3, Outfall 001 and Outfall 002, alpha-BHC

If USEPA determines that the authorized discharge would not cause, have the reasonable potential to cause, or contribute to an excursion of NMWQS for alpha-BHC, then the Final Permit must include additional effluent characteristic testing and/or study for alpha-BHC for Outfall 002 and Outfall 001, should a discharge at Outfall 001 occur, with a reopener clause condition to ensure that Permittee activities authorized in the NPDES permit are protective of NMWQS uses in 20.6.4.98 or 20.6.4.99 NMAC, 20.6.4.101 NMAC and HH-OO criteria for alpha-BHC in 20.6.4.900.J(1) NMAC consistent with CWA Section 401(d). USEPA may incorporate further conditions (e.g., reporting of loading and monthly average, monitoring frequency and sample type), as needed or as appropriate, consistent with the WQMP and NMIP.

Condition 4, Outfall 001 and Outfall 002, Retain Dissolved Boron Monitoring

Part I.A of the Final Permit must retain the dissolved boron monitoring for both Outfall 001 and Outfall 002 in the Draft Permit no less than once a year per 40 CFR § 122.44(i)(2) with a reopener clause condition to ensure that Permittee activities authorized in the NPDES permit are protective of NMWQS 20.6.4.98 or 20.6.4.99, and 20.6.4.101 NMAC, and irrigation use-specific numeric criteria for dissolved boron in 20.6.4.900 NMAC consistent with CWA Section 401(d).

COMMENTS THAT ARE NOT CONDITIONS OF CERTIFICATION

NMED Comment 1 to USEPA (Boron): This comment to USEPA is both related and in response to EPE's Comments 1 and 2 regarding Boron and Conditions of Certification 4. USEPA's Draft Permit included quarterly monitoring for dissolved boron in Outfalls 001 and 002. EPE Comment 1 requests that the requirement to monitor for dissolved boron be removed from Outfalls 001 and 002 because the TMDL has not been issued. EPE Comment 2 discusses and submitted additional analytical results from sample collection on July 31, 2018 from Outfall 002 discharge, intake well water and duplicates for parameters that included dissolved boron.

EPE's request to remove quarterly dissolved boron monitoring and additional data was considered as well as other factors including in-stream data, effluent data and that no TMDL/WLA has been developed. In this case, observed effluent pollutant concentrations are not only reportable, but exceed the target numeric criterion. Also, the listed impairment was due to observed in-stream boron concentrations downstream of the facility's discharge. Therefore, NMED has decided that a condition is required to retain monitoring with a re-opener clause in the Final Permit to ensure protection of NMWQS as discussed above. In consideration of EPE's

comment, in addition to other factors, NMED has not required a limitation subject to enforcement action by USEPA if exceed (i.e., interim waste load allocation) at this time.

Pollutant concentrations above a Minimum Quantification Level (MQL), as defined in 20.6.4.7 NMAC and enforceable in 20.6.4.12.E NMAC have been considered by NMED to contribute to listed impairments to ensure protection of uses. However, in this case, observed instream dissolved boron concentrations vary--possibly as a function of flow. Supplemental analyses conducted by NMED using the 30-day average flow from the most recent two-year flow data for Outfall 002, annualized or long-term flow information provided in the revised application for Outfall 001, and additional concentration data does not indicate a reasonable potential to exceed limiting NMWQS irrigation criterion for dissolved boron at this time.

As discussed in the 2013 Section 401 Certification, it may be determined that a critical low flow on an annual, a seasonal or a monthly basis is appropriate for Rio Grande in 20.6.4.101 NMAC, as allowed in NMWQS 20.6.4.11.B NMAC. Additional evaluation of the facility's internal processes, intake waters or other contributions of dissolved boron should be considered by USEPA and the Permittee. This information may be needed in the development of a compliance schedule allowable under NMWQS 20.6.4.12.G NMAC should a modification or renewal permit include effluent limitations in the future.

Details on Factors Considered for Boron: Rio Grande (International Mexico boundary to Anthony Bridge) was listed as impaired for dissolved boron in the 2014 listing cycle. No exceedances were observed in the NMED MASS Station 42RGrand004.3 Rio Grande at Sunland Park Bridge (ranged from 265.6 to 187.8 µg/L) which is upstream of where the discharge from Outfall 002 via Montoya Drain would enter the Rio Grande. NMED's Assessment Rationale for the 2018 - 2020 State of New Mexico §303(d)/ §305(b) Integrated List for Rio Grande (International Mexico boundary to Anthony Bridge) Assessment Unit (AU) NM-2101_00 describes that in the 2014 Action, this AU was sampled during the 2011-2012 Lower Rio Grande survey and there were 2/8 exceedances of the dissolved boron criterion for irrigation uses. Dissolved boron was higher than the NMWQS criteria at NMED MASS Station 42RGrand002.7 Rio Grande at Corchese Bridge below the Rio Grande Power Station (concentrations ranged from 259.1 to 920 µg/L). Portions of the Rio Grande below the Corchese Bridge to the International Mexico boundary are in New Mexico. During the 2011-2012 Lower Rio Grande Survey, samples were collected of the Outfall 002 effluent. Outfall 002 effluent dissolved boron was 1740 µg/L on 06/16/2011 and 1530 µg//l on 12/08/2011. Total boron concentration provided on the Permittee's 2018 Renewal Application dated January 18, 2018 was 1.6 milligrams per Liter (mg/L) or 1600 µg/L. Dissolved boron results for samples collected from the discharge of Outfall 002 on July 31, 2018 were 1.42 mg/L (1420 µg/L) which were flagged for QA/QC issues, and 1.41 mg/L (1410 µg/L). Intake waters were 0.288 and 0.315 mg/L (288 and 315 µg/L).

NMED Comment 2 to USEPA (alpha-BHC): This comment to USEPA is both related and in response to EPE's Comment 2 for alpha-BHC and other pollutants. EPE Comment 2 discusses and submitted additional analytical results from sample collection on July 31, 2018 from Outfall 002 discharge, intake well water, duplicates for metals, Gross Alpha, and alpha-BHC. The data was used in supplemental analyses, including antidegradation screens, to determine which pollutants, if any, required protective limitations to protect applicable NMWQS in 20.6.4.900.J(1) NMAC. As a result of the supplemental analyses conducted by NMED SWQB, only effluent concentrations for alpha-BHC were shown to be required as addressed in Conditions of Certification 1, 2 and 3.

NMED Comment 3 to USEPA (alpha-BHC, possibly other pollutants): EPE provided information on maximum pump rate should a discharge occur at Outfall 001 of 0.36 MGD. Based on supplemental analyses conducted by NMED SWQB, over approximately 30% of the maximum pumping rate (e.g., greater than 0.108 MGD) may have reasonable potential to exceed applicable alpha-BHC criteria in the Rio Grande.

NMED requests that USEPA consider adding additional planned or 24-hour reporting, proper maintenance and operation, and/or emergency discharge conditions in the Final Permit. Reporting conditions should include examples of information to be provided (e.g., date, time, duration, pumping rate of the discharge from Outfall 001, estimated discharge flow from Outfall 002, and estimated flow rate of the Rio Grande).

NMED Comment 4 to USEPA: Downstream water quality standards were not discussed in the USEPA Fact Sheet dated June 25, 2018 for the Draft Permit. NMED requests that USEPA discuss in the Response to Comments for this Final Permit the applicability of 33 U.S. Code § 1341, Subsection (a)(2), and if required, results of notification to downstream affected States.